

REMARKS

This is a response to the Office Action mailed March 25, 2004. The Office Action rejected claims 21-23 under 35 U.S.C. §103(a). No claims have been amended or cancelled. Claims 21-23 remain pending in the application..

Reconsideration in light of the remarks made herein is respectfully requested.

Rejections Under 35 U.S.C. § 103

The Office Action rejected claims 21-23 under 35 U.S.C. §103(a) as being unpatentable over Nishimoto et al. (U.S. Pat. No. 6,496,919 in view of Tanaka et al. (U.S. Pat. No. 5,923,883) and further in view of Nakara (U.S. Pat. No. 5,701,425).

35 U.S.C 103(c) states "Subject matter developed by another person, which qualifies as prior art only under one or more of the subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention where, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Applicants submit that the present claimed invention and the cited reference Tanaka et al. (U.S. Pat. No. 5,923,883) are owned by, or are subject to an obligation of assignment to, the same person, Matsushita Electric Industrial Corporation, at the time the invention was made.

Tanaka et al. (U.S. Pat. No. 5,923,883) is considered a 35 U.S.C §102(e) prior art since it was not published before the priority date of the present application. The Tanaka et al. patent issued on July 13, 1999 and the present application has a priority filing date of March 30, 1998.

MPEP §706.02(L)(1) states "this change [to 103(c)] applies to all utility ... applications filed on or after November 29,1999, including continuing applications filed under 37 C.F.R. 1.53(b)." The present patent application (09/808,306) was filed under 37 C.F.R. 1.53(b) as a divisional application on March 14, 2001. Thus, Applicants submit that Tanaka et al. should be disqualified as prior art.

Since Tanaka et al. is disqualified as prior art, Applicants submit that the remaining prior art fails to teach the claimed invention. Withdrawal of the 103(a) rejection of claims 21-23 is respectfully requested.

CONCLUSION

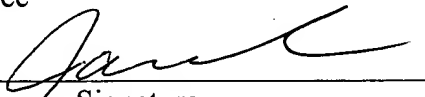
In view of the amendments and remarks made above, it is respectfully submitted that the pending claims are in condition for allowance, and such action is respectfully solicited. Authorization is hereby given to charge our Deposit Account No. 19-2814 for any charges that may be due. Furthermore, if an extension is required, then Applicants hereby request such an extension.

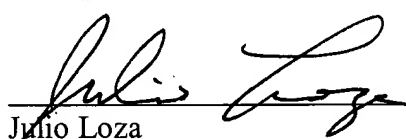
Respectfully submitted,

Snell & Wilmer, L.L.P.

I hereby certify that this document is being deposited on August 23, 2004 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313

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Signature


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